

II. REMARKS

A Non-final Office Action was issued in this application on January 14, 2011 (hereinafter “Non-final Action”). This submission is believed to be fully responsive to the Non-final Action. Claims 5, 7, 10, 16 and 38-41 are pending in this application; all pending claims presently stand rejected. Claims 5, 7, 10, 16 and 38-41 are amended herein, and new claims 42-49 have been added. After entering this submission, claims 5, 7, 10, 16 and 38-49 remain pending. Reconsideration and allowance of this application in view of the above amendments and the following remarks is herein respectfully requested.

A. CLAIM AMENDMENTS

Applicant has added new claims 42-49, as presented in the Listing of the Claims section, *supra* § I, at 6-8. It is respectfully submitted that the addition of claims 42-49 does not introduce new matter into the subject application, as the originally presented drawings and specification provide full support for the additions and modifications set forth herein. For example, support for new claims 42-49 can be found in FIGS. 1-6 of the drawings, paragraphs [0111]-[0125], [0128]-[0131], [0136]-[0142], [0190-0219] and [0231]-[0242] of the specification, as originally presented.

A. CLAIM REJECTIONS – 35 U.S.C. 103

Claims 5, 10, 16 and 38 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,343,161 B2, to Uchida (hereinafter “Uchida”), in view of U.S. Patent No. 6,157,529, to Ahuja (hereinafter “Ahuja”), and U.S. Patent No. 7,374,258 B2, to Bowron (hereinafter “Bowron”). In addition, claims 7 and 39-41 are rejected under 35 U.S.C. § 103(a) as being obvious over Uchida, in view of Ahuja and Bowron, and further in view of U.S. Patent No. 6,517,433 B2, to Loose et al. (hereinafter “Loose”). Independent claims 5, 10 and 16 are amended herein.

Amended independent claim 5 is directed to a gaming machine, which includes, *inter alia*, a variable display that is adjacent a display device. The variable display comprises one or more reels, each of which has symbols associated with an outcome of a wagering game. At least some portions of the display device are operable to transition between a highly transparent

condition and a highly non-transparent condition. The gaming machine also includes a display control device that is configured to control the display device. A power source relay device relays power fed from a power source feeding device so as to independently supply the power to the image control device, the image state keeping device, and the display device. If the power source relay device fails to feed the relayed power to the display device while the power source feeding device remains operative: (a) the power source relay device is operative to feed the relayed power to the image control device and the image state keeping device, and (b) the image control device commands the portions of the display device to transition to the highly transparent condition such that the outcome of the wagering game is visible through the portions of the display device.

Amended independent claim 10 is directed to a display device apparatus for a gaming machine having a variable display with one or more reels, each of which has symbols associated with an outcome of a wagering game. The display device apparatus includes, *inter alia*, a display device adjacent the variable display. At least some portions of the display device are operable to transition between a highly transparent condition and a highly non-transparent condition. A display control device is configured to control the display device. The display device apparatus also includes a power source relay device to relay power fed from a power source feeding device to the display device, the image state keeping device, and the image control device. If the power source relay device fails to feed the relayed power to the display device while the power source feeding device remains operative: (a) the power source relay device is operative to feed the relayed power to the image control device and the image state keeping device, and (b) the portions of the display device transition to the highly transparent condition such that the outcome of the wagering game is visible through the portions of the display device. Amended independent claim 16 recites similar, albeit not identical limitations to those amended into independent claim 10. Applicant respectfully submits that the applied references do not render independent claims 5, 10 and 16 *prima facie* obvious.

To properly substantiate a *prima facie* case of obviousness under § 103(a) requires the applied references disclose, teach, or otherwise suggest each and every element and limitation of the rejected claims. *See In re Kotzab*, 217 F.3d 1365, 1369-71 (Fed. Cir. 2000); *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). Indeed, as the Board of Patent Appeal and Interferences recently confirmed, the failure of an asserted combination to teach or suggest each and every limitation of

a claim is fatal to an obviousness rejection under § 103(a). See *Ex parte Wada and Murphy*, Appeal No. 2007-3733, Slip Op. at 7 (BPAI January 14, 2008), citing *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003). The necessary presence of all claim features is axiomatic, since the Supreme Court has long held that obviousness is a question of law based on underlying factual inquiries, including ascertaining the differences between the claimed invention and the prior art. See *Graham v. John Deere Co.*, 383 U.S. 1 (1966). For that reason, the examiner may not opportunistically disregard any of the characterizing claim limitations; rather, “[every] word[] in a claim must be considered in judging the patentability of a claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970). In effect, “[w]hen determining whether a claim is obvious, an examiner must make ‘a searching comparison of the claimed invention - including all its limitations - with the teaching of the prior art.’” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995).

Uchida is directed to an image processing device with a number of distinct image frame memories and a control device. The distinct image frame memories are connected to a single image processor for effecting image processing by the image processor by concurrently and repeatedly executing, reading, image processing, and outputting functions for input image data. The control device external to the single image processor writes original test data to and reads image data written from each of the memories. In addition, the control device compares the original written test data with the read image data written from the memories to determine whether each of the memories is operating in a normal manner. If any of the memories is adjudged to be abnormal due, the control device switches the reading, image processing, and outputting functions previously performed by the now abnormal memory to the remaining memories, which concurrently execute the functions in order to effect image processing by the image processor. Moreover, the control device transmits information of the abnormal memory to an operator and informs the operator of possible image sizes which can still be processed by the remaining memories.

Ahuja, on the other hand, is directed to a surge protector for protecting electrical equipment connected on its load side from spurious or excessive transient voltages or surges above a predetermined value, on its line side or its hot side. Ahuja discloses using a fuse to monitor a fault current flowing into a surge voltage suppression device, due to an excessive voltage across the suppression device. An over-current condition will cause the fuse to blow,

which disables and opens a solid state switch or an electro mechanical switch mounted in series in the line. This protects the secondary or the load side from over-voltages and transient surges on the electrical line.

Lastly, Bowron is directed to a modular automated kiosk that has a cabinet with a face frame releasably secured thereto, a number of cross members secured to the face frame, and various hardware components that are releasably secured to the cross members. The hardware components may be sized and configured such that they project substantially directly inward into the cabinet when the face frame is secured to the cabinet.

Uchida, Ahuja and Bowron, whether considered individually or collectively, do not teach or suggest each and every limitation of independent claims 5, 10 and 16. For example, none of the applied references teaches a gaming machine or a display device apparatus for a gaming machine that, if the power source relay device fails to feed relayed power to the display device while the power source feeding device remains operative: (a) the power source relay device is operative to feed the relayed power to the image control device and the image state keeping device, and (b) the image control device commands the display device to transition to the highly transparent condition such that the outcome of the wagering game is visible through the portions of the display device. Uchida is cited for allegedly disclosing, *inter alia*, “an image processor 140 that receives image data for various type of processing jobs such as gradation conversion, color conversion, hyper tone and sharpness processing (Uchida: col. 7, lines 24- 30).” Non-final Office Action of August 18, 2009, at 2, Item No. 1. In contrast, Ahuja is applied for purportedly teaching “a surge protector containing an electromechanical relay (Ahuja: col. 3, lines 48-49) for the purpose of protecting electric devices from power surges (Ahuja: col. 3, lines 21-27).” *Id.*, at 3, Item No. 2. Lastly, Bowron is applied as allegedly disclosing, *inter alia*, “[a] computer and [a] power supply which are built in the upper portion of a gaming cabinet, and as can be seen in figure 2, the upper portion is geometrically apart from a lower portion of the gaming machine”. Non-final Action, at 2, Item No. 2. Neither Uchida, Ahuja nor Bowron depicts or describes a display device that is operable to transition between a highly transparent condition and a highly non-transparent condition, let alone a display device that, in response to a power source relay device failing to feed relayed power to the display device while the power source feed remains operative, is commanded to transition to the highly transparent condition such that the outcome of the wagering game is visible through the portions of the display device.

For at least the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of all pending § 103(a) rejections.

III. CONCLUSION

In light of the amendments and remarks set forth above, this submission is believed to be fully responsive to the Office Action of January 14, 2011. The amendment and remarks in support of the rejected claims are believed to place this application in condition for allowance, which action is herein respectfully requested. If the Examiner believes that a personal conference with Applicant's attorney will help expedite prosecution of the captioned application, the Examiner is reverently invited to contact the undersigned at his soonest convenience.

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All fees due in connection with this filing are believed to have been submitted contemporaneously herewith. However, should any additional fees be deemed necessary, the Commissioner is hereby authorized to charge any inadvertently omitted fees (except for payment of the issue fee), to Nixon Peabody, LLC, Deposit Account No. 50-4181, Order No. 247079-000773USPT. Please credit any overcharges or overpayments to the same Deposit Account.

Respectfully submitted,

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